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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/838, 242 04/16/97 DILLON

D PD-N96055

WM02/1002  
HUGHES ELECTRONICS CORPORATION  
PATENT DOCKET ADMINISTRATIONM  
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P O BOX 956  
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EXAMINER

MILLER, J

ART UNIT	PAPER NUMBER
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2611

DATE MAILED:

10/02/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 08/838,242	Applicant(s) Dillon
Examiner John W. Miller	Art Unit 2611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-68 is/are pending in the application

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

5)  Claim(s) 42-67 is/are allowed.

6)  Claim(s) 1, 12-15, 26, 27, 30-32, 41, and 68 is/are rejected.

7)  Claim(s) 2-11, 16-25, 28, 29, and 33-40 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20)  Other: \_\_\_\_\_

*Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 12-15, 26, 27, 30-32, 41, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stuart et al (5,678,175).

As to claim 1, note the Stuart et al reference which discloses a satellite communications system having a satellite communication payload 280 as shown in Figure 24. The reference discloses that the satellite 12 (a transmitter) monitors the pool of frequencies in the 148.0 - 149.9 MHz band and assigns channels to user terminals as available. A band scanning receiver contained in the RF communications section 230 is a digital spectrum analyzer. The receiver scans the uplink band every 0.5 seconds for uplink signals, projects channel usage for the next 0.5 seconds, and in the first burst of the protocol, instructs a calling terminal 212 which channel to use. The transmitter is consequently responsive to this instruction, as opposed to the receiver, as set forth in the claim. However, the examiner submits that one of ordinary skill in the art would have readily recognized the advantage for modifying the system to provide adaptive channel assignments and tuning instructions to the receiver---namely, an alternative method in which to dynamically facilitate plural point-to-point communications stream. Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to modify the system accordingly for the stated advantage.

Claims 12-15 and 26 are met by that discussed above.

As to claims 27 and 30, it is common to transmit plural channels on a single transponder, and it would have been obvious to implement the system to analyze channel usage over a single transponder or plural transponders as necessitated by the nature of the communications and use of the available bandwidth.

Claims 31, 32, 41, and 68 are met by that discussed above.

#### ***Allowable Subject Matter***

3. Claims 42-67 are allowed.
4. Claims 2-11, 16-25, 28, 29, and 33-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

#### ***Certificate of Mailing***

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents  
Washington, D.C. 20231

on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

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Signature: \_\_\_\_\_

### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) \_\_\_\_\_ on \_\_\_\_\_  
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

6. Any response to this action should be:

(a) mailed to: Commissioner of Patents and Trademarks

Washington, D.C. 20231

(b) or faxed to: (703) 872-9314 for either formal communications intended for entry, or informal or draft communications (please label "PROPOSED" or "DRAFT")

(c) or hand-delivered to: Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor  
(Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Miller whose telephone number is (703) 305-4795. The examiner can normally be reached on Monday through Friday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached at (703) 305-4380. The fax phone number for this Group is

(703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

John W. Miller

September 30, 2001



John W. Miller  
Primary Examiner  
Art Unit 2611